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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,558	12/03/2001	Rodney Kern	29020/97035B	3273

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EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/006,558

Applicant(s)

KERN ET AL.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003 and 25 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 16, 17, 19, 20, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) 8, 16 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 17, 20, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The applicant's information and disclosure statement (paper #12) has been considered and a copy has been placed in the file.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims, 1-7, 9, 17, 20, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark in view of Leuchten et al. Clark discloses two panels (C and D), an actuating system (chains, pulleys, motor, inclined guide track), which moves the panels (C and D) between an open and closed sealed position. Clark fails to disclose the panels to be formed of resilient foam having a covering. Leuchten et al. disclose an impact-absorbing panel formed of foam and having a flexible outer covering. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the panels of Clark to be impact absorbing as taught by Leuchten et al. since this allows the panels to be resilient upon an impact without damaging the panel itself.

The applicant's arguments have been considered but are not deemed persuasive.

The applicant's terminal disclaimer has overcome the double patenting rejection.

The applicant argues the combination of Clark and Suter, which is not readily understood by the Examiner since the new rejection is based on Clark in view of Leuchten et al. Furthermore, the applicant argues that Leutchen et al. teaches the reinforcement/strengthening of a panel and not the flexible resistance thereof. The


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Examiner disagrees. Leuchten et al. clearly teach a panel formed of plastic (foam is a form of plastic) having a flexible outer covering. Leuchten et al. is trying to provide a stronger panel yet still provides a desired flexibility upon an impact (the abstract states "the reinforcing sheet provides excellent flexural reinforcement and impact absorbing properties"). Still furthermore, even if Leuchten et al. teach the idea of reducing the amount of deflection (as stated in the applicant's arguments) Leuchten et al still teaches the fact that the panel is flexible and designed to absorb higher impacts via strengthening the panel itself.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



Jerry Redman
Primary Examiner